

## PECUNIARY CLAIMS

*Special agreement signed at Washington August 18, 1910; terms of submission signed at Washington July 6, 1911*<sup>1</sup>

*Approved by the Senate July 19, 1911*

*Confirmed by exchange of notes April 26, 1912*

*Entered into force April 26, 1912*

*Terminated upon fulfillment of its terms*

37 Stat. 1625; Treaty Series 573

### AGREEMENT

WHEREAS the United States and Great Britain are signatories of the convention of the 18th October, 1907,<sup>2</sup> for the pacific settlement of international disputes, and are desirous that certain pecuniary claims outstanding between them should be referred to arbitration, as recommended by article 38 of that convention;

NOW, THEREFORE, it is agreed that such claims as are contained in the schedules<sup>1</sup> drawn up as hereinafter provided shall be referred to arbitration under Chapter IV of the said convention, and subject to the following provisions:

ARTICLE 1. Either party may, at any time within four months from the date of the confirmation of this agreement, present to the other party any claims which it desires to submit to arbitration. The claims so presented shall, if agreed upon by both parties, unless reserved as hereinafter provided, be submitted to arbitration in accordance with the provisions of this agreement. They shall be grouped in one or more schedules which, on the part of the United States, shall be agreed on by and with the advice and consent of the Senate, His Majesty's Government reserving the right before agreeing to the inclusion of any claim affecting the interests of a self-governing dominion of the British Empire to obtain the concurrence thereto of the Government of that dominion.

Either party shall have the right to reserve for further examination any claims so presented for inclusion in the schedules; and any claims so reserved

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<sup>1</sup> For schedule of claims, see 37 Stat. 1627 or p. 5 of TS 573.

<sup>2</sup> TS 536, *ante*, vol. 1, p. 577.

shall not be prejudiced or barred by reason of anything contained in this agreement.

ARTICLE 2. All claims outstanding between the two Governments at the date of the signature of this agreement and originating in circumstances or transactions anterior to that date, whether submitted to arbitration or not, shall thereafter be considered as finally barred unless reserved by either party for further examination as provided in article 1.

ARTICLE 3. The Arbitral Tribunal shall be constituted in accordance with article 87 (Chapter IV) and with article 59 (Chapter III) of the said convention, which are as follows:

“ARTICLE 87. Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court, exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

“The umpire presides over the tribunal, which gives its decisions by a majority of votes.”

“ARTICLE 59. Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.”

ARTICLE 4. The proceedings shall be regulated by so much of Chapter IV of the convention and of Chapter III, excepting articles 53 and 54, as the tribunal may consider to be applicable and to be consistent with the provisions of this agreement.

ARTICLE 5. The tribunal is entitled, as provided in article 74 (Chapter III) of the convention, to issue rules of procedure for the conduct of business, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all formalities required for dealing with the evidence.

The agents and counsel of the parties are authorized, as provided in article 70 (Chapter III), to present orally and in writing to the tribunal all the arguments they may consider expedient in support or in defense of each claim.

The tribunal shall keep record of the claims submitted, and the proceedings thereon, with the dates of such proceedings. Each Government may appoint a secretary. These secretaries shall act together as joint secretaries of the tribunal and shall be subject to its direction. The tribunal may appoint and employ any other necessary officer or officers to assist it in the performance of its duties.

The tribunal shall decide all claims submitted upon such evidence or information as may be furnished by either Government.

The tribunal is authorized to administer oaths to witnesses and to take evidence on oath.

The proceedings shall be in English.

ARTICLE 6. The tribunal shall meet at Washington at a date to be hereafter fixed by the two Governments, and may fix the time and place of subsequent meetings as may be convenient, subject always to special direction of the two Governments.

ARTICLE 7. Each member of the tribunal, upon assuming the function of his office, shall make and subscribe a solemn declaration in writing that he will carefully examine and impartially decide, in accordance with treaty rights and with the principles of international law and of equity, all claims presented for decision, and such declaration shall be entered upon the record of the proceedings of the tribunal.

ARTICLE 8. All sums of money which may be awarded by the tribunal on account of any claim shall be paid by the one Government to the other, as the case may be, within eighteen months after the date of the final award, without interest and without deduction, save as specified in the next article.

ARTICLE 9. Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a ratable deduction on the amount of the sums awarded by it, at a rate of 5 per cent, on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE 10. The present agreement, and also any schedules agreed thereunder, shall be binding only when confirmed by the two Governments by an exchange of notes.

In witness whereof this agreement has been signed and sealed by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States, and by His Britannic Majesty's Ambassador at Washington, The Right Honorable James Bryce, O. M., on behalf of Great Britain.

Done in duplicate at the City of Washington, this 18th day of August, one thousand nine hundred and ten.

PHILANDER C. KNOX	[SEAL]
JAMES BRYCE	[SEAL]

[For schedule of claims, see 37 Stat. 1627 or p. 3 of TS 573.]

#### TERMS OF SUBMISSION

I. In case of any claim being put forward by one party which is alleged by the other party to be barred by treaty, the Arbitral Tribunal shall first deal with and decide the question whether the claim is so barred, and in the event of a decision that the claim is so barred, the claim shall be disallowed.

II. The Arbitral Tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim any admission of liability by the Government against whom a claim is put forward.

III. The Arbitral Tribunal shall take into account as one of the equities of a claim to such extent as it shall consider just in allowing or disallowing a claim, in whole or in part, any failure on the part of the claimants to obtain satisfaction through legal remedies which are open to him or placed at his disposal, but no claim shall be disallowed or rejected by application of the general principle of international law that the legal remedies must be exhausted as a condition precedent to the validity of the claim.

IV. The Arbitral Tribunal, if it considers equitable, may include in its award in respect of any claim interest at a rate not exceeding 4 per cent per annum for the whole or any part of the period between the date when the claim was first brought to the notice of the other party and that of the confirmation of the schedule in which it is included.

The foregoing Schedule and Terms of Submission are agreed upon in pursuance of and subject to the provisions of the Special Agreement for the submission to arbitration of pecuniary claims outstanding between the United States and Great Britain, signed on the 18th day of August, 1910, and require confirmation by the two Governments in accordance with the provisions of that Agreement.

Signed in duplicate at the City of Washington, this sixth day of July, one thousand nine hundred and eleven, by the Secretary of State of the United States, Philander C. Knox, on behalf of the United States, and by his Britannic Majesty's Ambassador at Washington, the Right Honorable James Bryce, O.M., on behalf of Great Britain.

PHILANDER C. KNOX  
JAMES BRYCE